



February 3, 2000

Ms. Cynthia Reed
Assistant City Attorney
City of College Station
P.O. Box 9960
1101 Texas Avenue
College Station, Texas 77842

OR2000-0386

Dear Ms. Reed:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 132642.

The City of College Station received a request for a complete copy of College Station Police Report number 99-008508. You claim that the requested information may be withheld from disclosure pursuant to section 552.108(a)(2) of the Government Code as a record that concerns an investigation that has come to some type of final result other than a conviction or deferred adjudication. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Based on the information you provided, it appears that the charge has been dismissed. We understand you to assert that the requested information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable.

However, as you correctly noted in your letter, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. -- Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(2). We note that you

have the discretion to release all or part of the remaining information that is not otherwise confidential by law.¹ Gov't Code § 552.007.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

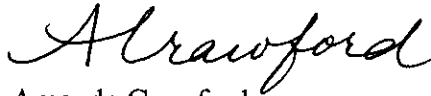
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

¹Section 159.002(b) of the Texas Occupations Code protects from disclosure "[a] record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician." The documents you submitted to this office include medical records, access to which is governed by provisions outside the Public Information Act. Open Records Decision No. 598 (1991). The Occupations Code provides for both confidentiality of medical records and certain statutory access requirements. *Id.* at 2. While section 552.108(a)(2) of the Government Code provides a permissive exception that may be waived at your discretion, we caution that the medical records submitted to this office for review may only be released as provided by chapter 159 of the Occupations Code.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "A Crawford".

Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/ch

Ref: ID# 132642

Encl. Submitted documents

cc: Ms. Christine E. Reule
Claims Representative
Houston Claims, Inc.
P.O. Box 771968
Houston, Texas 77215-1968
(w/o enclosures)